PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of
Alan K. Schaer

For: **LINEAR ABLATION ASSEMBLY**

Serial No.: 09/901,856

Filed: July 9, 2001

Atty. Docket No.: 9610.1241

Examiner: R. S. Kearney

Group Art Unit: 3739

COMMUNICATION

CERTIFICATE OF FACSIMILE TRANSMISSION PURSUANT TO 37 C.F.R. §1.8
I hereby certify that this correspondence is being transmitted by facsimile to Examiner R. S. Kearney(703) 305-3590, U.S. Patent and Trademark Office, Washington, D.C. 20231, on July 14, 2003, in San Francisco, CA.
By: _____

Mail Stop RCE
Commissioner for Patents
P.O.. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This communication is in response to the final rejection in the above-identified application.

Claims 22-24 were finally rejected by the Examiner under 35 USC §102(e) as being anticipated by Thompson et al. (U.S. Pat. No. 6,454,758). In the final rejection, the Examiner indicated that the applicant's position that U. S. Patent No. 6,454,758 was not prior art was not persuasive and that the priority date with respect to claims 22-24 of the present application was 10/29/98.

Applicant disagrees with the Examiner in this regard. To that end applicant has set forth below the pending claim 22 with the individual claim elements provided with reference numbers which are found in Figs. 1-3 of both this application and the prior

grand parent application, now U.S. Patent No. 6,863,291 which was filed prior to the earliest possible filing date of the Thompson et al. patent.

22. An intravascular assembly for forming a continuous lesion within a chamber of a patient's heart, comprising:

a) an elongated delivery member (11) having proximal and distal ends, a lumen (13) extending within at least a portion of the delivery member, a distal section (25) shapeable into a curved configuration having an inner side and an outer side, an elongated depression (opening 28 of the depression) along one side of the distal section having a proximal end and a distal end, at least one opening in the distal section in communication with the lumen, and an elongated support element (26) which is fixed along a length of the distal section coextensive with at least part of the elongated depression; and

b) an elongated electrophysiological device (12) disposed within the lumen of the elongated delivery member (11), having a distal end secured within the distal end of the elongated delivery member, and having a plurality of emitting electrodes on a distal portion thereof, and which is configured to extend out of and away from the elongated depression upon relative movement between the delivery member and the elongated electrophysiological device.

In the rejection the Examiner referred to an elongated depression which was illustrated in Figs. 23-24 which were new figures to the parent application. However, the depression referred to is also shown in Figs. 1-3 as noted above which are found in the

grandparent application now U.S. Patent No. 5,863,291. The opening 28 is the upper portion or limit of the depression. This feature has an effective priority date of April 8,1996, well before the earliest possible filing date for the Thompson et al. patent.

Applicant again submits that the Thompson et al. patent is not an effective prior art reference under 35 U.S.C.§102(e) as contended by the Examiner. Applicant respectfully requests that the claims be reconsidered and allowed.

Respectfully submitted,

By: _____
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